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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,149 02/19/2004		Ghassan S. Kassab	P01568-US-01 (26259.0010)	5030
22446 ICE MILLER L	7590 06/19/2008 LLP		EXAMINER	
	AN SQUARE, SUITE	SZMAL, BRIAN SCOTT		
INDIANAPOLIS, IN 46282-0200			ART UNIT	PAPER NUMBER
			3736	
			MAIL DATE	DELIVERY MODE
			06/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/782,149	KASSAB ET AL.	
Examiner	Art Unit	
Brian Szmal	3736	

lawe been filed is the date for purposed of determining the period of extension and the corresponding amount of the fee. The appropriate extension (e. ander 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shorthead statutory pend for reply originally set in the final Office action; or (2) as et forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, nay reduce any earned patent term adjustment. Sea 37 CFR 1.704(b). SOTICE OF APPEAL. 2. ☐ The Notice of Appeal was filed on		Brian Szmal	3736					
Note The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must interly file one of the following replices: (1) an amendment, affaliaty, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal feet in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following grience periods: a)	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress				
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) \[\text{The period for reply expires 6} \) months from the mailing date of the final rejection. b) \[\text{The period for reply expires 6} \) months from the mailing date of the final rejection. Carmient Noic: (Ib ox 1; is checked, check dimer box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MFEP 706.07(f). Examiner Noic: (Ib ox 1; is checked, the civil interport of 1.1364) and the appropriate extension fee insert been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee insert been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee inserts been filed in the civil of the original date of the final Office action, or (2) as ct forth in (1) above, if checked, Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed. OTICE OF APPEAL The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e), to avoid dismissas of the appeal. Since a Notice of Appeal was filed on A price of the correct of the corre	THE REPLY FILED <u>03 June 2008</u> FAILS TO PLACE THIS APP	LICATION IN CONDITION FOR AI	LLOWANCE.					
The period for reply expires <i>E</i> _months from the mailing date of the final rejection, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expires on: (1) the mailing date of the Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS form the mailing date of the final rejection. Examiner Note: if box is checked, check either tox (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL RELECTION. See NIPEP 765.07(f). **Continuous of the may be obtained under 37 CFR 1.136(a) The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee leave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee leave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee leave been filed in (b) shove, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as et forth in (b) shove, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, any reduce any examed patent term adjustment. See 37 CFR 1.704(b). **OTTICE OF APPEAL** **OTTICE O	application, applicant must timely file one of the following r application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidavit al (with appeal fee) in compliance v	, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request				
The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this rejection. Examiner Note: If box 1 is checked, check either tox (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION See MPEP 780 for (f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee area been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee and so from 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as of forth (in) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as of forth (in) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as of finit in the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS I. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise the issue of new matter (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They are not deemed to pl	<u></u>	of the final rejection						
MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Kensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee taxe been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee notes of the final form of the period property of the shortened statutory pend for reply originally set in the final Office action, or (2) as et forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, nay reduce any earned patent term adjustment. See 37 CFR 1.704(b). MOTICE OF APPEAL ■ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(a), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS ■ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) may reply as the sisue of new matter (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They raise the deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).	b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later.							
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee larve been filled is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee larve been filled is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee lard from it, 1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as et forth in (b) above, if checked, Any reply received by the Office determined for reply originally set in the final Office action; or (2) as et forth in (b) above, if checked, Any reply caused by the Office of Appeal and the filling the Notice of Appeal and the period of the period set forth in 37 CFR 41.37(a), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the date of filling the Notice of Appeal has been filled, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS (a) The proposed amendment(s) filed after a final rejection, but prior to the date of filling a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise new issues that would require further consideration and/or search (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). (b) Applicant's reply has overcome the following rejection(s): (c) Applicant's reply has overcome the following rejection(s): (d) Applicant's reply has overcome the following rejection(s): (e) Applicant's reply has overcome the following rejection(s): (f) Applicant's reply has overcome th								
 In Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a)), to avoid dismissal of the date of filling the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS ME Proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); They raise the issue of new matter (see NOTE below); They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or They are not deemed to place the application in better form for appeal by materially rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). Applicant's reply has overcome the following rejection(s):	Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS 3. ★*The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ★*The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ★*The praise the issue of new matter (see NOTE below); (b) ★*The praise the issue of new matter (see NOTE below); (c) ★*They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ★*They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: **See Continuation Sheet.** (See 37 CFR 1.116 and 41.33(a)). ★*The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).								
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NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). □ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). □ Applicant's reply has overcome the following rejection(s): □ Applicant's reply has overcome the following rejection(s): □ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). □ For purposes of appeal, the proposed amendment(s): a) □ will not be entered, or b) □ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. □ The status of the claim(s) is (or will be) as follows: □ Claim(s) allowed: 31-34. □ Claim(s) objected to: □ Claim(s) rejected: 22-30.35-41.59-66. □ Claim(s) withdrawn from consideration: □ AFFIDAVIT OR OTHER EVIDENCE □ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). □ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). □ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER □ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: □ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	appeal; and/or			10 100 000 101				
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Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). Newly proposed or amended claim(s) would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: 31-34. Claim(s) objected to: Claim(s) rejected: 22-30.35-41.59-66. Claim(s) withdrawn from consideration: Netidate of the revidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	4. The amendments are not in compliance with 37 CFR 1.12	1. See attached Notice of Non-Cor	mpliant Amendment (l	PTOL-324).				
non-allowable claim(s). For purposes of appeal, the proposed amendment(s): a) \(\text{ will not be entered, or b)} \) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: \(\frac{31-34}{2} \). Claim(s) objected to: Claim(s) rejected: \(\frac{22-30.35-41.59-66}{2} \). Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE B. \(The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). D. \(\text{ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). D. \(\text{ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 1. \(\text{ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \(\text{ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)								
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Claim(s) rejected: 22-30.35-41,59-66. Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 3.	Claim(s) allowed: <u>31-34</u> .							
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The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Description: Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s). //Max Hindenburg/	Claim(s) withdrawn from consideration:							
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entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s). 13. Other:	because applicant failed to provide a showing of good and							
REQUEST FOR RECONSIDERATION/OTHER 1. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 2. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 3. Other: /Max Hindenburg/	entered because the affidavit or other evidence failed to or showing a good and sufficient reasons why it is necessary	vercome <u>all</u> rejections under appea and was not earlier presented. Se	l and/or appellant fail: e 37 CFR 41.33(d)(1	s to provide a).				
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3. Other: /Max Hindenburg/	 The request for reconsideration has been considered but 	does NOT place the application in	condition for allowan	ce because:				
	12. Note the attached Information <i>Disclosure Statement</i> (s). (13. Other:	PTO/SB/08) Paper No(s)						
	/Max Hindenburg/ Supervisory Patent Examiner, Art Unit 3736							

Continuation of 3. NOTE: The claim have been amended to include an "instantaneous cross-sectional area" which was not present in any of the previous claims.